

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WALTER HAMMOCK, derivatively on behalf
of Nominal Defendant Electronic Arts, Inc.,

Plaintiff,

v.

M. RICHARD ASHER, et al.,

Defendants

No. C-05-2009 MMC

**ORDER DENYING PLAINTIFF'S
"UNOPPOSED MOTION TO APPOINT
LEAD DERIVATIVE COUNSEL AND
STAY THIS MATTER"**

(Docket No. 8)

Before the Court is plaintiff's "Unopposed Motion to Appoint Lead Derivative Counsel and Stay This Matter," filed June 13, 2005.¹ The motion has not been noticed for a hearing, in violation of both Civil Local Rule 7-2(a) and the Court's order of June 24, 2005. In addition, plaintiff has failed to provide a chambers copy of his proposed order, as required by General Order 45 and the Court's standing orders.

In his motion, plaintiff asks the Court to (1) appoint his counsel "as Co-Lead Counsel for the Plaintiff in the Federal Derivative Action," (2) stay all proceedings until 30 days "following an entry of an Order on Defendants' Motion to Dismiss in the Consolidated Securities Class Action that either grants dismissal without leave to replead or denies dismissal or as further ordered by the Court," and (3) automatically consolidate with the

¹ Although plaintiff states that the motion is unopposed, there is no declaration to that effect. The Court further notes that none of the defendants has appeared in the action to date.

1 instant action "all subsequently filed federal derivative actions raising issues against any or
2 all of the Defendants that are the same as or similar to those raised" in the instant action.
3 (See Motion at 2-3.)

4 Plaintiff has failed to set forth any legal or factual basis for the relief sought.
5 Although appointment of lead counsel is required, pursuant to the Private Securities
6 Litigation Reform Act, see 15 U.S.C. § 78u-4(a)(3)(B)(v), in federal securities actions
7 brought pursuant to 15 U.S.C. § 78 et seq., the instant lawsuit is not such a suit. Plaintiff
8 has cited no law requiring appointment of lead counsel in the instant action.

9 With respect to plaintiff's request for a stay, plaintiff has set forth no legal or factual
10 basis for such request. The Court will not stay litigation without a showing of good cause.

11 Finally, with respect to plaintiff's request that all subsequently-filed derivative actions
12 be automatically consolidated with the instant action, plaintiff has set forth no factual or
13 legal basis for its request. Plaintiff may, of course, move, pursuant to Civil Local Rule
14 3-12(b), if he becomes aware of a related action pending before another judge in this
15 district. Related actions need not necessarily be consolidated, however. Indeed, the
16 instant action has been related to, but not consolidated with, In re Electronic Arts Inc.
17 Securities Litigation, C-05-1219 MMC.

18 Accordingly, plaintiff's motion is hereby DENIED, without prejudice.

19 **IT IS SO ORDERED.**

20 Dated: June 27, 2005

/s/ Maxine M. Chesney
MAXINE M. CHESNEY
United States District Judge